

REGULAR MEETING
MINUTES

MAY 18, 1998

The regular meeting of the Sleepy Hollow Corporate Authorities was called to order at 7:30 p.m. In attendance were President Shields; Trustees Czerniawski, DeBolt, Harney, Merkel, and Nemec; Police Chief Montalbano; Treasurer Panning; and Clerk Olson. Trustee Williams was absent.

MINUTES:

NEMEC MOVED WITH A SECOND FROM HARNEY TO APPROVE THE MAY 4, 1998 REGULAR MINUTES. MOTION PASSED BY VOICE VOTE WITH DEBOLT ABSTAINING.

PRESIDENT:

1. The President requested an executive session at the end of this meeting for purposes of personnel.
2. President Shields and Trustee Czerniawski met with Engineering Enterprises to discuss their recent invoice and aggressive billing procedures, which include billing in half hour increments. They felt we should no longer use this firm. President Shields' second choice last year was an East Dundee firm and he recommended they be appointed at this time. Trustee Nemec preferred to find out more about this firm before voting.
CZERNIAWSKI MOVED WITH A SECOND FROM HARNEY TO APPROVE THE APPOINTMENT OF GERALD L. HEINZ & ASSOCIATES, INC. AS THE VILLAGE ENGINEERS. AYE: CZERNIAWSKI, HARNEY, DEBOLT, MERKEL. NAY: NEMEC. MOTION PASSED.

CLERK:

1. Received three bids for the police car: Welcome Motors, \$4,055; Chicago Motors, \$4,289; and Asia Motors, \$3,865. HARNEY MOVED WITH A SECOND FROM MERKEL TO APPROVE THE SALE OF THE 1994 CHEVY CAPRICE SQUAD CAR TO CHICAGO MOTORS, INC. FOR \$4,289.00. AYE: HARNEY, MERKEL, CZERNIAWSKI, DEBOLT, NEMEC. MOTION PASSED.
2. CZERNIAWSKI MOVED WITH A SECOND FROM HARNEY TO APPROVE RESOLUTION NO. 267 AUTHORIZING CORPORATE SIGNATORIES FOR THE ELGIN STATE BANK. MOTION PASSED BY VOICE VOTE.
3. Trustees Czerniawski, Harney, and Williams will be out of town for the June 1st meeting. Trustee Nemec is scheduled to work but will try to change his schedule to ensure a quorum. We will plan on the 1st unless the Clerk hears otherwise from Trustee Nemec.

PLAN COMMISSION:

Chairman Markey would like to delay discussion of the wetlands ordinance to a later meeting. Our soils map is dated 1973 and needs to be updated.

ZONING BOARD:

1. Chairman Neil distributed a report on the lowland conservancy overlay district and summarized the history of the board's work with NIPC on this matter. He then reviewed the Zoning Board's report and the necessary ordinance which would include a very costly wetland delineation map for the Village. The restrictions of this ordinance would impact on many property owners in the Village. We may also have problems enforcing this ordinance. However, Trustee Harney feels we can use an updated soils maps instead of a costly map and should be able to model our ordinance after established ordinances in other municipalities. The Board agreed the Zoning Board should continue their work on this matter and that it would entail substantial discussion within the boards and input from residents. President Shields suggested a meeting with NIPC officials. The Board would like to have an ordinance substantially complete by next March.
2. Chairman Neil talked to Ladi Kolacny who is ready to move forward on KinderCare. He suggested to Mr. Kolacny that the attorneys should discuss all legal steps concerning the public hearing.

*****OPEN TO THE PUBLIC*****

(8:45 - 9:30 p.m.)

1. Catherine Hurlbut, attorney for John Fahy, stated their position concerning his impact fees for the lots at the corner of Randall Road and Joy Lane. Mr. Fay also spoke about this matter. Their comments are detailed in a separate document which is attached as part of these minutes.
2. Bill Hanselmann of the Service Club requested permission for the Service Club to install a park bench and plaque at Lake Sharon in memory of long time resident and Club member Bob Zdenek. They will purchase the bench. The Board approved but asked that they work with Trustee DeBolt on the exact location of the bench.
3. Bob Mucha, the owner and contractor for the property at 718 Hillcrest discussed the water problems on his property. They have encountered clay tiles and plastic pipes which drain water from property on Laurel Court. Public Works installed one 4" plastic pipe on his property at the request of the former owner. However, additional pipes are on the property of which the Village was unaware. He would like assistance in forcing the Laurel Court resident to halt the flow of water onto his property. President Shields stated that this is a private dispute between Mr. Mucha and the homeowner on Laurel Court and possibly other adjacent homeowners. Mr. Mucha can install his own 6" curtain drain system to stop the water drainage but it must be located on his property, not the Village easement.

ZBA:

No report.

ATTORNEY:

No report.

ENGINEER:

No report.

TREASURER:

1. CZERNIAWSKI MOVED WITH A SECOND FROM DEBOLT TO APPROVE THE APRIL 30, 1998 WARRANTS IN THE AMOUNT OF \$57,563.87. AYE: CZERNIAWSKI, DEBOLT, HARNEY, MERKEL, NEMEC. MOTION PASSED.
2. Add to the May 15th warrants \$76.53 for Mobile Communications and \$70.00 for BCI Communications. CZERNIAWSKI MOVED WITH A SECOND FROM DEBOLT TO APPROVE THE MAY 15, 1998 WARRANTS IN THE AMOUNT OF \$8,137.21. MOTION PASSED.
3. There were no comments on the financial statements.
4. DEBOLT MOVED WITH A SECOND FROM NEMEC TO APPROVE ORDINANCE NO. 98-12 ENTITLED "AN ORDINANCE MAKING SUPPLEMENTAL APPROPRIATIONS FOR CORPORATE PURPOSES FOR THE FISCAL YEAR BEGINNING MAY 1, 1997 AND ENDING APRIL 30, 1998". AYE: DEBOLT, NEMEC, CZERNIAWSKI, HARNEY, MERKEL. MOTION PASSED.
5. The Board discussed how to fit the resident officer program back into the budget. It was determined that we have enough excess to allow the program to continue for only four months. After that time, we can review the budget for any available funds to continue the program. CZERNIAWSKI MOVED WITH A SECOND FROM HARNEY TO APPROVE THE FISCAL YEAR 1999 OPERATING BUDGET WITH THE ADDITION OF THE RESIDENT OFFICER EXPENDITURE OF \$1,200.00. AYE: CZERNIAWSKI, HARNEY, DEBOLT, MERKEL, NEMEC. MOTION PASSED.
6. CZERNIAWSKI MOVED WITH A SECOND FROM HARNEY TO AUTHORIZE THE OPERATING TRANSFERS OF \$85,000 TO THE 5 YEAR CAPITAL IMPROVEMENT FUND, \$105,000 TO THE WATERWORKS & SEWERAGE O&M FUND, AND \$10,000 TO SEWERAGE O&M FUND. AYE: CZERNIAWSKI, HARNEY, DEBOLT, MERKEL, NEMEC. MOTION PASSED.

WATERWORKS & SEWERAGE O&M FUND, AND \$10,000 TO SEWERAGE O&M FUND. AYE: CZERNIAWSKI, HARNEY, DEBOLT, MERKEL, NEMEC. MOTION PASSED.

7. CZERNIAWSKI MOVED WITH A SECOND FROM DEBOLT TO APPROVE RESOLUTION NO. 268 ENTITLED "A RESOLUTION DESIGNATING CAPITAL IMPROVEMENT FUND BALANCE RESERVES FOR VEHICLES, BUILDING AND PROPERTY IMPROVEMENTS FOR FISCAL YEAR ENDED APRIL 30, 1998". MOTION PASSED BY VOICE VOTE.

ROADS & PARKS:

1. The 1998 MFT program will need new bid specs prepared to include swale work for those portions of Sleepy Hollow Road that will have maintenance work. We would also like to add road stripes after the paving is complete. President Shields and Trustee DeBolt will meet with the new engineers.
2. The crack sealing project is complete.
3. Two part time employees have been recommended for public works. DEBOLT MOVED WITH A SECOND FROM CZERNIAWSKI TO APPROVE THE HIRING OF DOUGLAS VOLKENING AND JASON CHILDS FOR THE PART TIME SUMMER POSITIONS AT THE RATE OF \$7.25 PER HOUR. AYE: DEBOLT, CZERNIAWSKI, HARNEY, MERKEL, NEMEC. MOTION PASSED.
4. A resident on Hillcrest complained that the creek is running dry.
5. New trees have been planted around the Village Hall and Public Works which are part of last fall's landscape program.
6. A resident on Holly Court has complained of debris on a Village out lot. It appears another resident is dumping their trash on this lot. A letter should be sent to those homeowners about dumping.

FINANCE:

1. We will enter into a two year agreement for employee health insurance, but do have the option of terminating it with 60 days notice if we find a better insurance program. CZERNIAWSKI MOVED WITH A SECOND FROM HARNEY TO APPROVE THE TWO YEAR AGREEMENT WITH ILLINOIS DEPARTMENT OF CENTRAL MANAGEMENT SERVICES FOR THE GROUP HEALTH INSURANCE PLAN. AYE: CZERNIAWSKI, HARNEY, DEBOLT, MERKEL, NEMEC. MOTION PASSED.

WATER:

1. Engineering Enterprises sent a letter in early May to the Illinois Environmental Protection Agency responding to additional questions on our proposed water phosphate treatment program. We are awaiting approval of this program.

POLICE:

1. The monthly police activity report was submitted.
2. We are accepting applications for full and part time police positions.

HEALTH & SANITATION:

1. President Shields said he received a letter from a child in Saddle Club concerning possible safety issues at the playground in that subdivision. This was referred to Joel Kruse for his review of the park equipment.

BUILDING:

1. Our building department is being evaluated by a national association that is reviewing all building departments in the country. We will be required to adopt BOCA's most recent codes.
2. The Sign Depot has a sign that we may need to approve at the next meeting.
3. Trustee Harney and Trustee Nemec will be compiling an inventory of all non-conforming uses in the village, including fences and sheds.

4. Trustee Harney is attending the school district meetings and feels we should sign the letter of understanding which has been sent to all district villages. Some board members do not feel we should sign this as it may be taken as our endorsement of any school district proposals.
5. There is a Wednesday night meeting concerning the TCI audit.
6. The Village Attorney will be given information to prepare an ordinance concerning an increase in various building fees.
7. Discussed possible times to meet with our attorney to review the Fahy matter.

DEBOLT MOVED WITH A SECOND FROM HARNEY TO ADJOURN TO EXECUTIVE SESSION AT 10:40 P.M. FOR THE PURPOSE OF DISCUSSING PERSONNEL PURSUANT TO §2(c)(1) OF THE OPEN MEETINGS ACT. MOTION PASSED BY VOICE VOTE.

The regular meeting reconvened at 10:50 p.m.

OLD BUSINESS:

No report.

NEW BUSINESS:

The June newsletter must be done earlier than usual. Please submit any suggestions for the newsletter asap as the Clerk will present a draft at the June 1st meeting and give to the printers shortly thereafter.

DEBOLT MOVED WITH A SECOND FROM CZERNIAWSKI TO ADJOURN THE MEETING AT 10:55 P.M. AYE: CZERNIAWSKI, DEBOLT, HARNEY, MERKEL, NEMEC. MOTION PASSED.

Respectfully submitted,



Norine Olson
Village Clerk

May 18, 1998

Re: John Fahy Subdivision

Comments by Catherine Hurlbut, attorney for John Fahy, at Village board meeting of May 18, 1998 concerning Mr. Fahy's subdivision at the corner of Randall Road and Joy Lane. Ms. Hurlbut distributed a time line of events in this matter. Mr. Fahy has been served with a cease and desist order due to his failure to pay an invoice for impact fees.

President Shields noted that our Village Attorney feels we have a valid ordinance concerning the impact fees. Ms. Hurlbut does not deny that we have a valid ordinance applied properly, but would like to state their position. They have closed at 694 Deer Lane because they were forced to do so by the buyers. The lender for the buyers was willing to close without an occupancy permit. President Shields noted that this is a separate issue but that there was no occupancy permit because there was not compliance with the requirements of the building department. The new owner did not apply to the village for water. Ms. Hurlbut said this is an issue with the new owners, not Mr. Fahy. Trustee Harney stated there was not a request for a final inspection; Ms. Hurlbut said there was in the form of a phone call and checklist that was reviewed.

Ms. Hurlbut said she was unable to obtain from the village any Plan Commission minutes on this matter, any documentation from the Plan Commission on impact fees at the time of plat approval, or any plat variation information. She said the village law states that at the time of final plat, a land dedication is to be done, but if land is not available, a fee may be charged at that time. However, this fee was not charged until 20 months after the final plat approval. This was also done without due process. There was no public hearing as required by law. There were four violations of state statute; equitable estoppel theory, due process theory, detrimental of reliance theory, and two violations of the Open Meetings Act. Ordinance 96-5 waives any ordinance, etc. in conflict with it. The occupancy permit should not have been issued at 696 Deer if there were any outstanding fees. There was a letter from Mr. Panning that there were no fees dues. This is on equitable estoppel theories.

On due process, if the fee was to be charged, there was to be an open meeting and hearing where the developer could present information. The school board was also to have the right to comment at that time. She said the school board was never even notified of the impact fees or that this subdivision was going on. Mr. Fay was not advised of this board discussion. There are also no minutes of the Plan Commission meetings at the Village Hall. These are violations of the opening meetings act.

There was detrimental reliance in that when Mr. Fahy started this project he had five lots and was convinced by Mr. Kirkland [former chairman of Plan Commission] that this would be a re-subdivision and he should go down to four lots. This was all part of the negotiations in bringing this plat in. Mr. Fahy eventually went along with Mr. Kirkland's recommendation for four lots. Ms. Hurlbut has the original plat with five lots.

Ms. Hurlbut said this is an improperly invoiced fee and asked the board to void the invoice, issue the occupancy permit for 694 Deer Lane as all items have been completed, and issue building permits for 698 and 700, which are at the Village Hall, once all requirements have been met, and to void any impact fees.

John Fahy also spoke. He said if we want to re-negotiate the subdivision, he feels it is unfair that he went from five lots to four lots. He said the Plan Commission said they were not going to consider this a subdivision or send it on to the school district, park district, or the library as it was the best use of the land, similar to the Steffen subdivision. He said he feels it is unfair that the Steffen impact fees were waived and that if we are going to re-negotiate the subdivision, he would be willing to pay the \$10,000 impact fees if the Board gives him duplex zoning for his remaining two lots to make up for the fifth lot that he lost. President Shields said we would take it under consideration and that Mr. Fahy would have to apply to the appropriate board and follow procedures. Mr. Fahy said he gave up an \$80,000 lot. He also said that when this was worked out with the Plan Commission, he did agree to the four lots. Mr. Fahy said he agreed to the four lots like he agreed to no impact fees. Mr. Fahy feels revisiting the issue of the Plan Commission process after 20 months is unfair. He also stated that he applied directly to our Attorney Mark Schuster for a temporary occupancy permit and that all conditions were met except the fee issue and this was confirmed by Code Enforcement Officer Kruse.

President Shields said we will defer to the advice of our Village Attorney on this entire matter. Mr. Fahy would like to meet with officials and attorneys to attempt to settle this matter. Mr. Shields said he would talk with our attorney and Trustee Harney.

Trustee Harney noted that the Steffen impact fees were waived because there are already two houses on these parcels that have been paying taxes for many years. They have thus been buying into the school system for years, whereas the vacant lots have not made any contribution to the school district. She also noted that to her knowledge the village has never waived impact fees or lessened them or given special consideration for zoning to collect the ones they feel are due. These fees are collected to help the school district.

Mr. Fahy again responded that he gave up an \$80,000 lot in the planning process and that we are throwing the whole plan commission process out the door and saying we are going to re-negotiate it 20 months later. Trustee Harney stated that the Plan Commission is an advisory board, as Mr. Fahy should know since he was a member of the board, and that they never brought this before the Village Board to be validated which is required. President Shields said the Village Board only received the plan for four lots and does not have any knowledge of what may have been negotiated between a developer and the Plan Commission. Mr. Fahy agreed that the Plan Commission is only an advisory board.

Trustee Harney said the latest house has been completed illegally because it has a revoked building permit and the owners have been using water on Mr. Fahy's building permit. A condition of the building permit is that the Village will be notified when an occupancy has been granted so matters can be taken care of by the village. The final inspection has not been done, the occupancy permit has not been issued, and the homeowners are using the water. Mr. Fahy said the water meter is hooked up and that under his permit, once the water meter is installed, the builder begins paying. He said he has been nit-picked by the code enforcement officer. He said the new occupants have been welcomed to the village in a very unsatisfactory way. President Shields said this was done because there was not supposed to be anyone in the house. Mr. Fahy reiterated that he would like to sit down and settle this matter.

Trustee Harney stated that she would be willing to meet to discuss the impact fees. However, the occupancy permit, the reapplication for the building permit with all due fees will go forward before that house continues to be occupied, and there will be an arrangement with the water. There will be no negotiation on those points.

EXECUTIVE MEETING
MINUTES

MAY 18, 1998

The executive session of the Board of Trustees was convened at 10:40 p.m. for the purpose of considering personnel pursuant to §2(c)(1) of the Open Meetings Act. In attendance were President Shields; Trustees Czerniawski, DeBolt, Harney, Merkel, and Nemec; and Clerk Olson.

The Board discussed their dissatisfaction with the work performance of Superintendent of Public Works Art Sunderlage and his continual lack of completion of projects. We will set up a series of projects that are to be completed, with Art's input, within a certain time frame. This will be reviewed quarterly and documented in writing. A list of projects should be compiled and a job description prepared. Trustee DeBolt will meet with Art on this matter and should apprise him of the seriousness of the situation. Also discussed changing Art's work hours to approximately 8:00 a.m. to 4:30 p.m. to better serve the residents' needs and eliminate some overtime work.

DEBOLT MOVED WITH A SECOND FROM CZERNIAWSKI TO ADJOURN THE EXECUTIVE SESSION AT 10:50 P.M. MOTION PASSED BY VOICE VOTE.

Respectfully submitted,



Norine Olson
Village Clerk